

Hope Irvin, et al. v. Katherine Wright, et al.
Richard Hilger

November 24, 2015
15cv00550 SCY-KBM

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. 15cv00550 SCY-KBM

HOPE IRVIN, as Personal Representative
of the ESTATE OF VINCENT WOOD, Deceased,
Plaintiff,

vs.

KATHERINE WRIGHT, individually and in her
Official capacity as an Albuquerque Police Officer
JEFFREY BLUDWORTH, individually and in his
Official capacity as an Albuquerque Police Officer,
and CITY OF ALBUQUERQUE,
Defendants.

DEPOSITION OF RICHARD HILGER

November 24, 2015

12:55 p.m.

Trattel Court Reporting & Videography
609 12th Street, NW
Albuquerque, New Mexico 87102

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE THIS DEPOSITION WAS:

TAKEN BY: MS. FRANCES C. CARPENTER
ATTORNEY FOR THE PLAINTIFF

REPORTED BY: Penny E. McAlister, CCR, NM CCR #250
TRATTEL COURT REPORTING & VIDEOGRAPHY
P.O. Box 36297
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505-830-0600

Plaintiff's Motion for Summary Judgment
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<p style="text-align: right;">Page 30</p> <p>1 sign language. If we don't have that, we can also write 2 things -- write things down. 3 So you can do things like that, or various ways 4 that you can go ahead and -- go ahead and do your job the 5 best of your ability, or if someone else has a specialty 6 that can assist with it, yes. 7 Q. So what about people who are suspected of having 8 a mental health disorder? 9 A. We attempt to get a CIT officer, but that's not 10 always possible. 11 Q. Why is it not always possible? 12 A. That CIT officer -- not everyone was CIT trained 13 at that time, and that person -- the CIT officers may be on 14 a separate call where they're not available to respond. 15 Q. If a CIT officer is able to respond, then what 16 happens? 17 A. Usually they'll go and attempt to assist with the 18 situation by whatever they believe is necessary, talking to 19 them. That's how they generally will go from there. 20 Q. Isn't it true that they -- the CIT officer who is 21 dispatched should ideally be the first officer and the 22 primary officer on scene? 23 A. Ideally, it should, where the second and third 24 officer, their job would be basically his safety, or the 25 CIT officer's job is to make sure they stay safe.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. As of 2013, what was your understanding of how 2 you were supposed to engage with someone who is suspected 3 of a mental health disorder? 4 A. With everything else, officer safety is always 5 first, no matter what, and you usually try to remain calm 6 with them and talk to them. The best thing, you know, we 7 try to talk to them. That's the same with most people on 8 the street, is I prefer to talk to someone if possible, and 9 then I go on their actions as I react to their actions. 10 That's most -- most calls on the street is the 11 exact same way. You try to talk to -- I always try to talk 12 to them first. If I can get compliance by my voice, I'm 13 happy, and that's what I try to do with everyone. The same 14 with someone with mental disabilities. You try to talk to 15 them. You may try to just talk to them best -- the best 16 you can, but still remain safe at the same time. 17 Q. Do you engage your sirens and lights when you go 18 to a call that involves a mentally health person -- someone 19 with mental illness? 20 A. At times, you do. At times, you do. At times, 21 you don't. 22 Q. When do you, and when don't you? 23 A. Each -- we use -- our emergency equipment is 24 situational. I can't tell you we're only going to use it 25 on this, we're only going to use it on that. It depends on</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. So you've reviewed these CADS; correct? 2 A. Yes. 3 Q. They've been marked as Exhibit 1 to this 4 deposition. Do you see where a CIT officer was called out 5 on this in regards to this particular incident? 6 A. I don't see -- right now, just looking briefly 7 real quick -- I looked at it, but I don't remember 8 everything, but I don't see where one was actually called 9 at that point in time, and I don't know if Katherine Wright 10 or Jon O'Guin or any of the other officers or even Sergeant 11 Altman are CIT officers. 12 Q. And at the time, just to confirm, you were not 13 CIT trained -- or you were trained, but you weren't 14 certified? 15 A. That is correct, yes. 16 Q. Got it. So going back to my question on persons 17 with mental health disabilities, you said you had not heard 18 what I said verbatim like that before; right? 19 A. That is correct, yes. 20 Q. Had you heard some amalgamation of that, some 21 variation or version of that? 22 A. Definitely with the deaf and the blind, maybe 23 some slight variation. You know, I haven't looked into the 24 exact laws and everything with persons with mental 25 disabilities, that exact version.</p>	<p style="text-align: right;">Page 33</p> <p>1 a lot of different factors, traffic, time of day, how much 2 traffic there is. 3 Generally, I like to turn off my lights and 4 sirens as I'm getting closer to the call, but 5 unfortunately, that could, you know, slow down -- people 6 don't know I'm running lights and sirens anymore, but 7 neither does the traffic. So it could interfere with that. 8 It all depends on each type of call. 9 So I can't sit there and say we only do it on 10 this, we only do it on that, because it's -- as with most 11 of my job, it's completely situational. 12 Q. What did you learn that the purpose of CIT is? 13 What's the purpose of crisis intervention training or team? 14 MS. GRIFFIN: Objection; form and 15 foundation. 16 A. The purpose is to help us interact with people 17 with disabilities with the least amount of, I guess, 18 violence, or cooperation between the Police Department and 19 them, basically, in a nutshell. 20 Q. Did you know Mr. Torres had mental health issues 21 before you encountered him? 22 A. No, I did not. 23 Q. What was the call that you were going out to? 24 A. On which? 25 Q. Mr. Torres, yes.</p>

9 (Pages 30 to 33)

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1 call that says there is a 40?

2 MS. GRIFFIN: Objection; form and
3 foundation:4 A. Okay. The same thing is if a CIT or if a CIT
5 officer is going. Those are factors.6 Q. Do you call dispatch back and say, hey, can you
7 confirm if a CIT officer is going to be there? You just
8 said this person is 40. Let's ensure that that happens.

9 Do you do that?

10 MS. GRIFFIN: Objection; form and
11 foundation.12 A. It could be that. It could be knowing at that
13 time -- I know which officers of mine are CIT trained or
14 not. Since this is in the past, I can't recall if Officer
15 Wright was or is CIT trained.

16 Q. I'm still on a hypothetical.

17 A. Oh, it's a hypothetical?

18 Q. I'm still with the two -- the same call. One is
19 a 40, one is not a 40, but it's the same call.20 A. Okay. Generally, I know if my guys are CIT
21 trained or not that are actually working for me right now.
22 So that, yes, involves -- involves that.23 Q. So you get dispatched to the call, and it's for a
24 40. You can hear who else is dispatched and know whether
25 they're CIT or not?

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1 disabilities?

2 A. We do the best that officers can at the time do.
3 We try -- right now, we do have CIT training for -- it's
4 supposed to be mandated for everyone that's working in the
5 field. Eventually, it's going to be mandated for the whole
6 department to go through it, and then we do our best to
7 accommodate that, as long as we remain safe for ourselves
8 and the public will remain safe.9 Q. So you accommodate them by making sure the public
10 is safe? I'm just going to write down your answer.11 A. Okay. Safety is first for the public and us and
12 attempt to make -- make it safe for them. At that point in
13 time, if everything is safe, we attempt to accommodate
14 them, usually by talking to them as long as possible to
15 resolve the situation with as little -- hopefully, no force
16 at all.17 Q. Were you trained how to recognize certain mental
18 disorders such as schizophrenia?

19 A. Yes.

20 Q. Were you trained to recognize certain mental
21 disorders such as bipolar?

22 A. Yes.

23 Q. What are some of the symptoms of someone who
24 presents with -- someone who has schizophrenia?

25 A. Generally, they're usually more afraid of

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1 A. Generally, the answer is yes. That is correct.

2 Q. And hearing that, and you're on the way to the
3 call, you don't hear any dispatch for CIT or any officers
4 that you know to be CIT, do you then take affirmative
5 action to make sure CIT is there?6 A. It's situational, yes. If it sounds violent in
7 nature, definitely, 100 percent, we're doing that.

8 Q. We're doing what?

9 A. Attempt to see if there is a CIT.

10 Q. Now, it's my understanding from APD SOPs that
11 whenever a suspect is even -- whenever someone, a suspect
12 or otherwise, is suspected of being a 40, that CIT is
13 always -- it's not a may, maybe we will. It's a must. CIT
14 must be called to the scene. Am I wrong in that?

15 MS. GRIFFIN: Object to form and foundation.

16 A. I would actually have to 100 percent review it.

17 Right now, I can't say yes or no 100 percent right now.

18 Q. Were you 100 percent sure of that answer in 2013?

19 MS. GRIFFIN: Objection; form and
20 foundation.21 A. About the same. Right now, we always want, if
22 possible, a CIT.23 Q. So in your training, in your experience as being
24 an officer for as long as you've been an officer, how would
25 you explain how APD accommodates people with mental

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1 different situations, could be afraid of officers. They're
2 thinking that people are out to get them generally, type --
3 very generalization like that.4 Q. Were you trained that people who had
5 schizophrenia and other mental health disorders -- certain
6 other mental health disorders have a hypersensitivity to
7 light and sounds?

8 A. At times, certain ones do, yes.

9 Q. Were you also trained that you are not to yell

10 commands at people who have schizophrenia or certain mental
11 health disorders?

12 MS. GRIFFIN: Objection; form.

13 A. You were to avoid it if possible.

14 Q. And if fact, you're supposed to speak in -- speak
15 as calmly as possible to them; correct?

16 A. Yes.

17 Q. You're to tell them that you're not there to hurt
18 them or harm them in any way; correct?19 A. Yes. You try to do that. That's -- you know,
20 with most people with mental illness, that's generally the
21 best possible way is calm and relaxed. If everything
22 allows that to happen, yes.23 Q. Now, were you trained this just in the regular
24 CIT training, or was this some kind of special training
25 that you received in order to get a certificate?

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1 A. Well, we also -- you learn that in the academy.
 2 Then you also learn it again through the certificate
 3 course.

4 MS. GRIFFIN: Is that urgent?

5 MS. CARPENTER: Let's go off the record.

6 (A discussion was held off the record.)

7 **Q. It's my understanding that Katherine had a prior**
 8 **interaction with Mr. Wood roughly about a week or two**
 9 **before this incident. Are you aware of that?**

10 A. I can't say a hundred percent yes or no.

11 Q. Do you recall a call in which Ms. Wright went
 12 out, and it was alleged that Mr. Wood -- and I'm just going
 13 off the top of my head here. I don't know if these are
 14 the actual facts verbatim, but that Mr. Wood had gotten
 15 into some sort of altercation at -- I think it was a
 16 Walgreens, or it could have been another convenience store,
 17 and I don't recall if he broke a bottle or someone broke a
 18 bottle, a beer bottle or something like that, and
 19 Ms. Wright had interactions with him in that regards?

20 A. I can't say, because that sounds like a lot of
 21 the calls in the Northeast that we get. It really does.
 22 We have a lot of interactions with people at Walgreens
 23 causing fights, breaking things. I can't say yes or no.

24 Q. Were you ever called out to any type of
 25 interaction with Mr. Wood? Had you ever had any

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1 anyone else. So I just wanted to make sure he stayed out
 2 of traffic. I stayed for a little bit, watched him leave,
 3 and that was it.

4 Q. So you let him go because the incident that had
 5 given rise to the disturbance had ended?

6 A. Yes. And I didn't -- at that time, I did not
 7 have a crime. So there is no reason for me to detain him
 8 or anything like that. If I recall, it was just a
 9 disturbance, some guy doing something around the bus stop
 10 or something, but it wasn't enough for me to charge him or
 11 anything like that. I did not witness any crime when I
 12 arrived.

13 Q. How long was this before July of 2013?

14 A. Possibly maybe a week to three weeks. I didn't
 15 even know it was the same person until -- I think they
 16 showed a photograph one time of it, and I go, oh, I did
 17 have an interaction with him. That's the only time I knew.
 18 I didn't know who he was at that point in time when I
 19 initially contacted him.

20 Q. When you first arrived on scene, Richard, did you
 21 see Mr. Wood lying on the ground?

22 A. No. I believe the ambulance might have already
 23 been there working on him. I just stayed -- I let them go
 24 ahead and -- if they were, I let them go ahead and continue
 25 with their job.

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1 interactions with Mr. Wood prior to this?

2 A. Yes, I have.

3 Q. Tell me about that.

4 A. It was a -- basically, a disturbance on the
 5 corner of San Mateo and Montgomery. I went ahead -- I was
 6 nearby. It was a call holding. I told them that -- you
 7 know, basic, I advised -- which means I would take the call
 8 by myself and see what the disturbance was.

9 Q. Did the call come out as a 40, that he was
 10 possible 40?

11 A. I think it just came out as a disturbance. It
 12 could have been he possibly was, because he was doing
 13 something on the corner. I don't recall what it was. I
 14 arrived on scene. I parked in the street. I had to
 15 have -- my lights were on, but my sirens were not on,
 16 because I was blocking traffic. I didn't want my vehicle
 17 to get hit.

18 He was in front of me a little ways, and I
 19 contacted him -- attempted to contact him. Basically, he
 20 wanted nothing to do with me at all, didn't want to talk to
 21 me. If I recall, he gave me vulgar words and continued
 22 walking northbound, and I let him leave because he stopped
 23 what he was doing.

24 I had no reason to go further or anything with
 25 him. He didn't look like he was in danger to himself or

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1 Q. So you didn't realize that it was Mr. Wood until
 2 later when you saw a picture of him?

3 A. That is correct.

4 Q. Who showed you a picture of Mr. Wood?

5 A. It might have been on the news or somewhere or a
 6 picture somewhere. I don't recall exactly where.

7 Q. Did you have any other occasions to interact with
 8 Mr. Wood?

9 A. Not that I recall.

10 Q. What about any of your other officers that you
 11 know of?

12 A. That I know of? I'm not 100 percent positive
 13 that any of my other guys did. I believe they did,
 14 because, as I recall, he was -- stayed around that area, so
 15 people would have to contact him, but I can't say 100
 16 percent who or how many or anything like that.

17 Q. Let's go back to the incident in which you -- did
 18 you write a report in regards to that incident?

19 A. No.

20 Q. No record?

21 A. No, I did not write a report, but I added
 22 comments on the dispatch.

23 Q. What were the comments that you added?

24 A. Something about he left -- he left on foot or
 25 something like that. If I remember -- if I recall. This

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12 (Pages 42 to 45)

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